

UNION INTERNATIONALE DES AVOCATS



INTERNATIONAL ASSOCIATION OF LAWYERS
UNION INTERNACIONAL DE ABOGADOS
INTERNATIONALE ANWALTSUNION
UNIONE INTERNAZIONALE DEGLI AVVOCATI
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Rassembler les avocats du monde ♦ Bringing Together the World's Lawyers ♦ Reunir a los abogados del mundo

Stéphane BONIFASSI

Román ORIA FERNANDEZ DE MUNIAIN

Jerome ROTH

Co-Directeurs des Droits de l'Homme et de la Défense

Co-Directors of Human Rights and Defence

Codirectores de Derechos Humanos y Defensa

Lic. Álvaro Colom

Casa Presidencial, 6^a Avenida, 4-18, Zona 1.

Ciudad de Guatemala, GUATEMALA

Fax +502 2221 4423

Lic. José Amílcar Velásquez Zárate

Fiscal General de la República y Jefe del Ministerio Público

8^a Avenida 10-67, Zona 1, Antiguo Edificio del Banco de los Trabajadores,

Ciudad de Guatemala, GUATEMALA

Fax: +502 2411 9124

Paris, 10 April 2009

SUBJECT: INDIGNATION IN REACTION TO THE INHUMAN ACTS COMMITTED AGAINST GLADYS MONTERROSO

Dear Mr President,

Dear Mr Attorney General,

Several sources have informed the Union Internationale des Avocats (UIA – International Association of Lawyers) of the kidnapping and torture of **Gladys Monterroso**, a lawyer, university professor and general secretary of the *Encuentro por Guatemala* political party, in Guatemala City on 25 March 2009.

The UIA condemns these criminal acts in the strongest possible terms and is concerned that they were committed less than a day after the victim's spouse, the Director of the Human Rights Ombudsperson's Office, Sergio Morales, publicly presented a report detailing the contents of National Police records discovered in 2004, which revealed the atrocities committed by members of this police force during the armed conflict that lasted from 1960 to 1996 and that cost the lives of more than 200,000 Guatemalans.

The UIA urges the Guatemalan government and the Attorney General's office to carry out a full, impartial inquiry in order to identify, prosecute and punish the perpetrator(s) of these crimes.

From a broader standpoint, the UIA expresses its deep concern at the current wave of crimes committed throughout Guatemala and the phenomenon of criminalising people who are working for a fairer society

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Association Internationale Sans But Lucratif (AISBL) – N° AISBL : 0408.288.242

Correspondance à : UIA – 25, rue du Jour – 75001 Paris (France)

Tél. : +33 1 44 88 55 66 / Fax : +33 1 44 88 55 77 / E-mail : uiacentre@uianet.org / Web : www.uianet.org

Siège Social : Palais de Justice - Place Poelaert - 1000 Bruxelles (Belgique)

– the latest being the assassination of the journalist Rolando Sántiz on 1 April 2009 – and which, in recent weeks, have contributed to the increase in the atmosphere of insecurity and terror among the Guatemalan population.

The UIA reminds the Guatemalan authorities that it is their responsibility – in particular pursuant to binding international legislation and international customary law – to ensure the safety of all lawyers, human rights defenders and journalists in their work

As an organisation that pays particular attention to the protection of the legal profession, and more generally that of persons working for the defence of human rights, we respectfully remind you that it is the responsibility of your authorities to ensure that these persons are able perform their work free of all threats or persecution.

With regard to lawyers, this obligation, which is incumbent on you, is clearly recalled in the **Basic Principles on the Role of Lawyers** adopted by the United Nations in September 1990, which specify “where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities” (Rule 17).

Unanimously adopted by the States represented during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and part of the practice and *opinio juris* of States, these **Basic Principles** are considered binding by the UIA, on account of international customary law.

We would also like to recall the terms of the **Declaration on Human Rights Defenders** (United Nations General Assembly Resolution 53/144 of December 9, 1998) particularly its Article 12.2: “The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

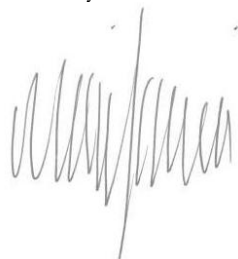
We recall that it is also incumbent on you to comply with the provisions of international and regional human rights conventions and treaties, in particular the **American Convention on Human Rights**, to which the Republic of Guatemala has been a party since 25 May 1978.

Finally, the UIA recalls that during the follow-up mission undertaken in Guatemala from 18 to 22 February 2008, the Special Representative of the United Nations Secretary-General on Human Rights Defenders stated that she was very concerned by the deterioration observed in the security situation of human rights defenders and the pervasive impunity affecting democracy and the rule of law.

In this regard, the UIA requests that the Guatemalan authorities do everything in their power to apply the recommendations contained in the Representative’s report concerning the situation of human rights defenders and the follow-up mission recently undertaken¹.

Thank you for considering these requests.

Sincerely,



Stéphane BONIFASSI

¹ A/HRC/10/12/Add. 3, 16 February 2009

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PRESS RELEASE

THE UIA URGES THE IRAQI AUTHORITIES NOT TO EXECUTE 128 PEOPLE WHO ARE SENTENCED TO DEATH

The Union Internationale des Avocats (UIA – International Association of Lawyers) wishes to express its profound indignation after the announcement, on 9 March 2009, that the Iraqi Supreme Judicial Council had ratified the death sentences of 128 people. The Court of Cassation had previously confirmed these sentences.

The UIA expresses its grave concern that these 128 persons may be executed at any time, at a rate of 20 executions per week according to our information sources.

The UIA states that it is extremely alarmed that the Iraqi Supreme Judicial Council has not provided any information concerning the identity of the 128 persons, who may be executed at any time.

We presume that most of the persons concerned were sentenced to death by the Central Criminal Court of Iraq.

The UIA acknowledges the right and responsibility of States to prosecute and try criminals. It does not wish to interfere in the workings of Iraqi justice, provided that this is rendered under conditions that meet international standards concerning the protection of human rights, independence and compliance with the rule of law.

However, we have received reports that the proceedings held before this Court did not take place in accordance with the international standards that require the guarantee of a fair trial.

The UIA is incidentally opposed to the death penalty under all circumstances, even if it is handed down upon completion of a judicial process that meets all the requirements of a fair trial. The death penalty has no impact on crime rates and very often targets the most vulnerable populations.

It is moreover clear that the death penalties and executions have in no way made it possible to reduce the violence in Iraq, and conversely there is reason to believe that such a cruel and

degrading punishment has contributed to the worsening of the situation, due to its dehumanizing effect.

Lastly, the UIA recalls that the reinstatement of capital punishment in Iraq in 2004 by the Iraqi executive authorities after the transfer of power from the United States-led coalition to Iyad Allaoui's government was a breach of Article 15 of the International Covenant on Civil and Political Rights – to which Iraq is a party – which provides that a heavier penalty shall not be imposed than the one that was applicable at the time when the criminal offence was committed.

Moreover, the UIA fears strongly that some of those sentenced to death were declared guilty on the basis of confessions obtained under torture by the Iraqi security forces.

For the reasons given above, the UIA demands that the Iraqi authorities **reveal publicly, as soon as possible, all the available information concerning the 128 persons sentenced to death**, in particular their full names, the details of the charges against them, the date of their arrest, their trial and any appeals lodged by them, where they are currently being detained and whether or not they benefited from a lawyer's assistance.

The UIA also exhorts the Iraqi authorities **to suspend the execution processes of these 128 persons immediately and to commute their sentences, where necessary after implementing a judicial process that provides the aforementioned guarantees, and to commute all the other death sentences handed down by the ordinary or special Iraqi courts.**

Paris, 10 April 2009

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Codirectores de Derechos Humanos y Defensa

Prime Minister Nguyen Tan Dung
Office of the Prime Minister
Hoang Hoa Tham
Ha Noi
Viet Nam

Fax (via Ministry of Foreign Affairs): +844 823 1872
Email (via Ministry of Foreign Affairs): banbientap@mofa.gov.vn

Paris, April 8th 2009

Dear Mr Prime Minister,

Subject : Improper interference on human rights lawyer Le Tran Luat's professional functions

The UIA received information several weeks ago on the closing of the office of human rights lawyer Le Tran Luat.

According to our colleague, his office was deprived of its licence on Wednesday March 25, as a result of a decision from the Department of Justice in the province of Ninh Thuan. The ruling affected his main office in southern Ninh Thuan as well as subsidiary offices elsewhere including in Ho Chi Minh City.

He said he was being questioned by police.

The UIA is gravely concerned as those interferences appear to be related to Mr Luat's work as legal representative of several Catholics appealing their conviction on a land dispute in northern Hanoi.

According to our information, the eight Catholics represented, aged between 21 and 63, were convicted in December of property damage and disturbing public order during vigils to protest the state seizure of church property after the 1954 departure of the French colonial power. Seven received suspended sentences of between 12 and 15 months, while one was given a warning.

The hearing before the court of appeal took place on Friday March 28, 2009. Mr Luat told the press, even before the closing of his office, that he would be unable to represent his clients because "police looked for all means to prevent me from going there, without explanation, and I cannot defend them."

We were recently informed that the appeal court upheld the convictions against the eight Catholics and that Mr Luat was in fact barred from attending the appeal.

We would like to recall that it is the government's duty to ensure that lawyers are able to practice their profession free from any threats or persecution.

This obligation is clearly recalled in the *Basic Principles on the Role of Lawyers* adopted by the United Nations in September 1990:

"Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics." (Rule 16)

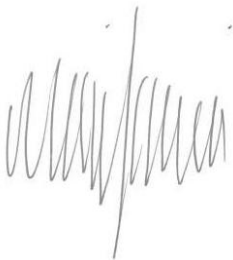
Unanimously adopted by the States represented during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and part of the practice and *opinion juris* of States, these *Basic Principles* are considered binding by the UIA, on account of international customary law.

This holds all the more true for Vietnam, which was represented at the said Congress and had therefore also approved the *Basic Principles*.

Considering that the decision to deprive Mr Luan of his licence to practise seems only related to his activities as human rights defender, the decision of the Department of Justice must be immediately lifted.

Any interference in his work as legal representative must stop. His clients must be granted the rights to be assisted by him in any legal proceeding. All necessary measures must be taken as regards the proceeding before the court of appeal and its decision which should be considered null and void in view of the grave breaches committed before this court as regards the rights of the defence.

Yours sincerely,



Stéphane BONIFASSI

CC : Embassy of Vietnam in France – fax : +33-1-4524 3948

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Prof. Dr. Bernd REINMÜLLER

*Premier
President
Presidente*

BUSE HEBERER FROMM

Neue Mainzer Straße 28
D-60311 FRANCFORT - ALLEMAGNE
Tel.: +49 (69) 97 10 97 100 / Fax: +49 69 97 10 97 200
E-mail: reinmueller@buse.de

His Excellency Lieutenant General Omar Hassan Al Bashir,

President of Sudan
Office of the President, People's Palace,
PO Box 281, Khartoum,
Sudan

Fax : +249 183782541

Paris, 24 March 2009

Subject: Urgent appeal for the immediate cessation of repressive practices against human rights defenders and lawyers, especially those supporting the proceedings before the International Criminal Court (ICC).

Your Excellency,

The Union Internationale des Avocats (UIA - International Association of Lawyers) is a multi-cultural, multi-lingual association that brings together over 300 bar associations representing almost two million lawyers as well as several thousand other lawyers on an individual basis from across the world.

The UIA pays particular attention to the protection of the legal profession, which it supports in its fundamental role of defending human rights and of protecting persons working for the defence of human rights.

In this connection, the UIA is extremely concerned about the persistence and intensification of repressive practices over the last few years that are aimed at hampering and punishing human rights defenders and lawyers with regard to the work they do in Sudan, as has been reported to us by different sources.¹

We have noted that ever since the armed conflict between rebel groups and government forces began in Darfur in 2003, human rights defenders active in the region have been constrained to work in an atmosphere of permanent insecurity: the acts of violence and attacks to which they fall victim are perpetrated both by Janjaweed militias and rebel factions, as well as government forces.

¹ Information emanating from the 43rd ordinary session of the African Commission on Human and Peoples' Rights, Kingdom of Swaziland - May 2008, under the following item on the agenda: "Situation of Human Rights defenders".

We are also concerned about the conditions in which a large number of humanitarian organisations have been expelled from Sudan and about the violence perpetrated against humanitarian staff in response to the issuance of an arrest warrant against Your Excellency by the ICC.

In addition, we were appalled to learn of the closure of the Khartoum Centre for Human Rights and Environmental Development - KCHRED² by the Sudanese authorities in application of a ministerial decree dated March 1, 2009³. We have been following closely the harassment campaign against the Centre since 2007, which seems to have reached its peak today.

Concerned about supporting the ICC's actions on the one hand, and the security of lawyers and human rights defenders working for this purpose on the other, we are especially alarmed by the policy of harassment and persecution that has been initiated against these persons since July 14, 2008, the date on which the ICC Prosecutor requested the Court to issue the above-mentioned arrest warrant.

In December 2008, we were informed of the harassment and arbitrary detention of three human rights defenders in Sudan: Mr. Amir Mohamed Sulim, Chairman of KCHRED, Mr. Abedlmonim Aljak, and Osman Hummaida, a human rights scholar and a member of the Assembly of Delegates of the World Organisation Against Torture (WOAT).

All three have been involved in defending the rights of Darfur victims. They have been subject to serious acts of harassment by the National Intelligence and Security Services (NISS) based in North Khartoum, during several rounds of interrogation associated with their work in defending human rights, particularly their involvement in inquiries conducted by the Court within the framework of the situation in Darfur. Two of them have been tortured.

These facts have been widely denounced within the international community by different government organisations and human rights NGOs.⁴

The UIA has also drawn the attention of the ICC Registrar to the violent acts perpetrated against these three Sudanese human rights defenders in a letter dated December 4, 2008.

Today, we note that these acts of violence and direct attacks against human rights defenders supporting the work of the ICC have assumed unprecedented proportions.

The UIA very strongly condemns all these acts aimed at preventing human rights defenders and lawyers from doing their work and revealing the insecurity affecting persons fighting against impunity in Sudan, particularly those supporting the proceedings pending before the ICC and involving Sudanese nationals.

With regard lawyers, we would like to recall that it is the government's duty to ensure that they are able to practice their profession free from any threats or persecution.

This obligation is clearly recalled in the *Basic Principles on the Role of Lawyers* adopted by the United Nations in September 1990:

"Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics." (Rule 16)

Furthermore, the *Basic Principles* specify: *"where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."* (Rule 17)

²International Federation of Human Rights, Observatory for the Protection of Human Rights Defenders, Annual Report 2007 – Sudan, June 19, 2008.

³International Federation of Human Rights, Observatory for the Protection of Human Rights Defenders, Urgent Appeal dated March 4, 2009.

⁴International Federation of Human Rights, Observatory for the Protection of Human Rights Defenders, Urgent Appeal, Three Human Rights Defenders in Danger!, November 27, 2008.

MUJEXTES-DROITS HOMME et DEFENSE JUSTICE PENALE INTERNATIONALE/Soudan - Président Hassan Bashir/UIA_lettre_14_Rechtr_March_2009.doc

Unanimously adopted by the States represented during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and part of the practice and *opinion juris* of States, these **Basic Principles** are considered binding by the UIA, on account of international customary law. This holds all the more true for Sudan, which was represented at the said Congress and had therefore also approved the **Basic Principles**.

We would also like to recall the terms of the **Declaration on Human Rights Defenders** (United Nations General Assembly Resolution 53/144 of December 9, 1998) particularly its Article 12.2: “*The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration*”.

Finally, we recall that it is incumbent upon you to also comply with the provisions of international and regional human rights conventions and treaties to which the Sudanese State is a party, notably the **African Charter on Human and Peoples’ Rights** ratified by the Sudanese Government on February 18, 1986.

We therefore appeal to your authority to immediately take all measures required by the above-mentioned provisions, in order to:

- Guarantee, in all circumstances, the security and physical and psychological integrity of lawyers mandated before the ICC or involved in the defence of individuals participating in proceedings pending before the Court.
- Put an immediate and definitive end to any form of harassment committed on Sudanese soil against all human rights defenders as well as against Sudanese and foreign human rights organisations and implement the necessary measures for the protection against such acts and for the prosecution of perpetrators.
- Assist the mandate of the United Nations Special Rapporteur on human rights defenders in Africa, as well as of the Special Rapporteur on the situation of human rights defenders, and the United Nations Secretary General’s Special Representative with regard to the condition of human rights defenders, by facilitating access to Sudanese territory and placing adequate means at their disposal to enable them to fulfil their mandate properly.
- Institute an immediate, independent inquiry into the threats and acts of violence against Mr Amir Mohamed Sulima, Mr Abedlmonim Aljak and Mr Osman Hummada, and institute criminal proceedings against those responsible.

We would further like to stress the fact that the work done by human rights defenders and lawyers assisting victims in proceedings brought before the ICC in Sudan is of vital importance for the enforcement of peace in the region.

In fact, the UIA considers that sustainable peace will not be possible if justice is not rendered and if the victims are not heard. We are concerned in this context that the government’s promises to fight against impunity for crimes committed in Darfur have remained unfulfilled.

Moreover, the UIA questions the argument according to which the issuance of arrest warrants by the ICC is prejudicial to the peace process. Certainly, the judicial process before the ICC can in no case be used as a pretext to justify the use of violence against civilians or humanitarian personnel.

Thank you for considering these requests,

Sincerely,



Prof. Dr. Bernd REINMÜLLER

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Codirectores de Derechos Humanos y Defensa

The Hon Patrick Chinamasa
Minister of Justice, Legal and Parliamentary Affairs
Ministry of Justice, Legal and Parliamentary Affairs
5th Floor Corner House
Private Bag 7751, Causeway
Harare, Zimbabwe

Fax : + 263 4 790901 / 772999

Paris, March 11, 2009

Dear Minister,

We were informed on the 6th of March about the arrest of Judge Livingstone Chipadze and his release on bail on Saturday 7th of March.

According to our information this arrest was the result of his decision to order the release of MDC ministerial nominee Roy Bennett, in line with a High Court ruling.

His order was later suspended after prosecutors appealed the bail decision to the Supreme Court, which is still considering the case.

We are concerned to learn that Mr Chipadze was charged with abuse of power in this case.

Chipadze's arrest and charging heightens concerns about the independence of the judiciary in Zimbabwe.

The UIA recalls that according to the Basic Principles on the Role of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985 :

“1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

3. *The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.*

4. *There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.*

(...)"

Furthermore it is provided that where a charge or complaint is made against a judge in his/her judicial and professional capacity, it "*shall be processed expeditiously and fairly under an appropriate procedure*" (Principle 17).

Principle 17 further states that "*The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge*".

According to many observers, the arrest and charging of Mr Chipadze is politically motivated. In this case charges against him must be immediately dropped.

If proved that his arrest is due to his judicial or professional capacity, all guarantees of fair trial as stated above must be granted to him.

Yours sincerely,



Stéphane BONIFASSI